

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL B. McPHERSON,  
Plaintiff,  
v.  
J. GREENE, CCI, et al.,  
Defendants.

No. 2:23-cv-0811 WBS KJN P

ORDER

Plaintiff, a state prisoner proceeding pro se, filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 28, 2023, the magistrate judge filed findings and recommendations herein which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff did not file objections to the findings and recommendations.<sup>1</sup>

The court presumes that any findings of fact are correct. See Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo.

---


<sup>1</sup> On October 19, 2023, plaintiff filed a document styled, "Motion for Relief for Abuse of Process." (ECF No. 23.) However, plaintiff does not address his failure to amend. Rather, plaintiff continues to claim he is entitled to default judgment. (Id., see also ECF Nos. 19, 21.) Plaintiff is mistaken.

1 See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983). Having  
2 reviewed the file, the court finds the findings and recommendations to be supported by the record  
3 and by the magistrate judge's analysis.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The findings and recommendations filed September 28, 2023, are adopted in full; and
- 6 2. This action is dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

7 Dated: November 16, 2023

  
8 WILLIAM B. SHUBB  
9 UNITED STATES DISTRICT JUDGE

10 /mcph23cv0811.800  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28